

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 5, PERTAINING TO ANIMALS, AND FOR OTHER PURPOSES.

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the public health, safety, and general welfare; and

WHEREAS, this ordinance is designed to protect the public from diseases transmitted by animals; prevent animal neglect and cruelty; proactively place animals in healthy adoptive and foster care; maintain safe communities for people and animals alike; and provide humane treatment for animals that come under the care of DeKalb County;

NOW, THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 5 of the Code of DeKalb County, Georgia, as Revised 1988, entitled “Animals,” is amended as follows:

PART I. ENACTMENT

Chapter 5 of the Code of Ordinances of DeKalb County, Georgia, is deleted in its entirety and a new Chapter 5 is enacted to read as follows:¹

Sec. 5-1. - Definitions.

For the purposes of this chapter, certain terms and words are hereby defined. Where words or terms are not herein defined, but are defined in section 1-2 or other applicable sections of this Code or state law, now and as they may be amended hereafter, those words shall have the meaning as defined therein. As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Abandonment means the intentional or complete forsaking of any animal by its owner, without making reasonable arrangements for the adequate care and custody of the animal to be assumed by another person or the failure to return and resume responsibility of an animal at the designated time as arranged with the care giver. Abandonment also means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and

¹ Note to Codifier. When codifying this ordinance, please specifically cross reference section 13-126 *et seq.* of the Code of DeKalb County, as Revised 1988.

without adequate and proper food and water for a period in excess of thirty-six (36) hours, regardless of where such animal may be found or kept.

Adequate care means exhibiting attention to the needs of an animal, including but not limited to, the provision of food, water, shelter, sanitary, safe and healthy conditions, and adequate and timely veterinary medical attention necessary to maintain good health for the specific age, size, species, and breed of animal.

Adequate food means sufficient quantity of non-contaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age and health of the animal, or at the direction of a licensed veterinarian; which is sufficient to prevent starvation, malnutrition, or risk to the animal's health. Garbage, spoiled, rancid, or contaminated food is not adequate food.

Adequate shelter means a protective covering for a domestic animal that provides adequate space and protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four (4) sides, a constructed floor, and a roof with a door opening. It should also be clean, dry and compatible with current weather conditions, in addition to age, size, species and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down and go in and out of the structure comfortably. To be adequate, some type of bedding that is quick drying, such as hay or pine straw, must be provided to maintain comfortable temperatures within the structure during times when the ambient, outside temperature is below freezing. In addition, the structure shall include a heavy plastic or rubber flap to cover the door and/or window openings during the months of November through March. From April through October, the structure shall either be shaded or moved out of direct sunlight. If the shelter is made of wood, it shall be raised at least two (2) inches off the ground to prevent seepage or rotting. Examples of inadequate shelter include, but are not limited to, lean-tos, metal or plastic drums, boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Adequate water means clean, fresh, potable water sufficient to prevent dehydration and properly sustain health presented in a clean dish, free from contamination. Examples of inadequate water include, but are not limited to, snow, ice and rancid/contaminated water.

Animal means every living vertebrate except a human being.

Animal at large means any animal moving without physical restraint and not on its owner's property.

Animal enforcement officer means any person authorized by the governing authority or by law to enforce the provisions of this chapter.

Animal service center means the facility designated by the governing authority for the detention of animals in the county and includes the animal control center facility identified and defined in Chapter 13 of this Code.

Classified animal means any animal that has been classified as either a dangerous or vicious animal pursuant to this chapter or comparably classified by the state of Georgia, or by any court, hearing officer, or authorized government agency of any other state,

county or municipality.

Classified animal pen means a padlocked pen, as that term is defined in this chapter, made entirely of industrial gauge fencing with a door or gate equipped with a working lock. The classified animal pen must contain adequate shelter, as that term is defined in this chapter, but must also contain a minimum one hundred square foot area outside the adequate shelter.

Community cat means an unowned, free-roaming cat that has been marked by surgical ear-tip pursuant to the community cat program.

Community cat program means a comprehensive process whereby unowned free-roaming cats are captured humanely, transported to a veterinarian for evaluation, spay/neuter surgery, rabies vaccination and marking by surgical ear-tip, and returned to the area or location where the cat was captured.

Cruelty means causing death or unjustifiable pain or suffering to any animal by an act, omission, or neglect. Cruelty also includes transporting an unrestrained animal in an open-air vehicle or in the trunk of any vehicle, or leaving an animal unattended in a closed vehicle without proper ventilation or temperature control where the outside air temperature is seventy (70) degrees Fahrenheit or above. Cruelty also means allowing or causing any animal to train for or engage in an animal fight operated for sport, entertainment or gaming purposes. Routine medical procedures by a licensed veterinarian shall not be regarded as cruelty.

Dangerous animal means any animal that, according to the records of an appropriate authority:

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury, provided, however, that a nip, scratch, or abrasion shall not be sufficient to classify an animal as dangerous;
- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the animal poses an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by an animal shall not be sufficient to classify an animal as dangerous; or
- (3) While off the owner's property, kills a pet animal; provided that no animal shall be classified as dangerous when the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.

Electronic animal confinement system shall mean a commercially produced, functioning and professionally installed electronic fence which utilizes an invisible electrically generated perimeter, in which the animal within the perimeter wears an electronic collar that produces an electric shock when the animal approaches or exceeds the perimeter.

Euthanasia means the legal act of putting an animal to death using humane methods, recommended by the American Veterinary Medical Association Panel on Euthanasia and

approved by the Georgia Department of Agriculture, as defined by Georgia law in the Georgia Animal Protection Act, as may hereinafter be amended.

Fence means any structure of wire, wood, stone or other material, which is of sufficient height and strength to act as a barrier against passage of the animal it is intended to enclose. A fence must be sufficient to prevent the animal from being able to jump, dig, or escape from confinement.

Garbage means all refuse matter/effluent, either animal or vegetable by-product from a restaurant, kitchen, or meat/poultry processing establishment; spoiled/rancid food and refuse accumulation of animal, fruit, or vegetable matter, liquid or otherwise, that is normally discarded.

Guard dog means a dog trained to attack persons or other animals independently or upon oral command; or a dog that, while not so trained, is reasonably expected to perform as a guardian of its owner and/or the property upon which the dog is located.

Hazardous animal means an animal that may be harmful to humans or other animals by virtue of its ability to produce poison or, due to its size and feeding habits, could prey on humans as a food source. Hazardous animals include, but are not limited to, pit vipers (genus Crotalidae), coral snakes (genus Micrurus), poisonous spiders, frogs, large reptiles, Nile monitors, caiman, alligators, crocodiles, and large constricting snakes greater than ten (10) feet in length.

Identification means any tag, tattoo, microchip, or other type of marking that can be used to locate an animal's owner.

Kennel means any establishment, other than an animal shelter, where animals are maintained for boarding, holding, training, or other similar purposes for a fee or compensation.

Law enforcement agency means any division of the DeKalb County police department or other governmental agency with law enforcement powers operating within DeKalb County.

Neglect means endangering an animal's health by failing to provide or arrange to provide the animal with food or drink if the animal is dependent upon a person for the provision of food or drink, or the act of restraining an animal in a manner that endangers the animal's life or health. Other acts considered to be neglect include, but are not limited to:

- (1) Failing to provide reasonable care or seek veterinary care for an injury or illness that seriously endangers the life or health of an animal; or
- (2) Leaving an animal outside and exposed to excessive heat or cold without providing the animal with adequate shelter or protection from the heat or cold, or exposing an animal to unsanitary conditions.

Open-air vehicle means the cargo area of any pickup truck that is not covered by a permanent attached utility cover or any convertible vehicle with its top down.

Official Certificate of Veterinarian Inspection Health Certificate ("OCVI Health Certificate") means a legible certificate issued by an accredited veterinarian either on an official form of the

State of Georgia or an equivalent official form of the United States Department of Agriculture.

Owner means any natural person or any legal entity, including but not limited to a corporation, partnership, firm, or trust, owning, possessing, harboring, keeping, or having custody or control of an animal. In the case of an animal owned by a minor, the term ‘owner’ includes the parents or person in *loco parentis* with custody of the minor. A cat may be deemed “unowned” if the cat is found on the property of a natural person or legal entity disclaiming ownership of the cat and no traceable form of identification is displayed on the cat.

Pen means a pad locked, fenced area within a perimeter fenced area that has secure sides that are buried two (2) feet into the ground or sunken in concrete and a secure top.

Police chief means the police chief of the DeKalb County police department or designee(s).

Primary means first or highest in rank; principal.

Proper enclosure means any structure or device used to restrict an animal to a limited amount of space such as a fenced area, electronic animal confinement system, building, house, pen, or other device or structure out of which an animal cannot climb, dig, jump, or otherwise escape.

Qualified adoption facilitator, rescue group and animal shelter means an organization offering animals for adoption so long as the organization is licensed as a shelter by the state of Georgia; or if not incorporated in Georgia, is a non-profit organization under section 501(c) (3) of the Internal Revenue Code; and has the express mission/business function of facilitating the sterilization and adoption of homeless and unwanted animals. A copy of the state license or the Internal Revenue Service letter of non-profit designation shall be provided to the County upon request.

Records of an appropriate authority means records of any state, county, or municipal law enforcement agency; records of any county or municipal animal control agency; records of any county board of health; or records of any federal or state court.

Secondary means of second rank; not primary.

Serious injury means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, or disfiguring avulsions; requires plastic surgery or admission to a hospital; or results in protracted impairment of health, including transmission of an infection or contagious disease, or impairment of the function of any bodily organ.

Severe injury means a physical injury that results in broken bones, significant puncture wounds, disfiguring lacerations requiring multiple sutures or cosmetic surgery or significant medical procedures or a physical injury that results in death.

Spay/neuter certificate means documentation that certifies that the animal listed therein has been sterilized as of the date of surgery.

Sterilized animal means an animal that has been surgically or chemically altered by a licensed veterinarian in order to render the animal incapable of reproduction.

Stray animal means any animal at large, whether lost by its owner or otherwise, that may be in or on the common areas of apartments, condominiums, trailer parks or other multi-residential premises, any single-family residential property, or any other property or public area without being controlled by a leash, that does not have an identification tag or microchip, and otherwise has no identifiable owner. A community cat shall not be classified as a stray animal, but a cat which has not become a part of the community cat program is a stray animal.

Tethered means an animal attached to a stationary object by a chain, cable or similar device commonly used for the size and type of animal involved. An animal is not considered tethered when the animal is attached to a stationary object, as long as the owner or custodian is physically within reach of the animal. Any tethering device used to tether an animal must be at least ten (10) feet in length.

Unsanitary conditions means an animal living space, shelter, or exercise area contaminated by health hazards, irritants, pollutants, items, or conditions that endanger or pose a risk to an animal's health.

Veterinary medical attention means care or supervision by a properly licensed practitioner of veterinary medicine as defined by Georgia law, sufficient to maintain an animal in a state of good health and prevent pain and suffering by an animal.

Vicious animal means one that inflicts serious injury on a person, or one that causes serious injury to a person resulting from reasonable attempts to escape the animal's attack.

Sec. 5-2. - General responsibilities of owners.

- (a) It shall be the duty of every owner of an animal to take all necessary steps and precautions to protect other people, property, and other animals from injury or damage resulting from such animal's behavior, including, but not limited to, chasing, biting, or otherwise jeopardizing the safety or welfare of the public, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.
- (b) If the owner of an animal is a minor, the parent or guardian of such minor shall be responsible to ensure full compliance with the requirements of this chapter.
- (c) It shall be the duty of every owner of an animal to immediately remove excrement deposited by the animal on any street or right-of-way. The provisions of this subsection shall not apply to any animal aiding the handicapped (e.g., guide dog) or to an animal used for law enforcement related activities.
- (d) Owners may not allow any domesticated or other animals within their control to make any vocalizations in violation of the county noise ordinance.

Sec. 5-3. - Keeping animal under restraint while on owner's property.

- (a) It shall be the duty of every owner of an animal to ensure that the animal is kept under restraint, and that precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner.

- (b) It shall be the duty of every owner of an animal to ensure that the animal is securely and humanely enclosed within a proper enclosure as a means of primary restraint. Such enclosure must be securely locked at any time the animal is left unattended. When outside the proper enclosure but on the owner's property, it shall be the duty of every owner of an animal to ensure that the animal is humanely secured by a leash or lead and under the control of a responsible and competent person; or off leash but under the direct control of a responsible and competent person who is physically present with the animal, provided that such animal is obedient to that person's command.
- (c) Any animal that is housed outside of its owner's house shall be housed in a proper enclosure that complies with the provisions of this Code. The owner shall also ensure that the proper enclosure contains at least one hundred (100) square feet of open space as that term is defined in Chapter 27 of this Code.
- (d) Tethering of an animal is prohibited.
- (e) As a secondary means of restraint to a proper enclosure, an animal may be attached to a running cable line or trolley system providing that:
 - (1) A running cable line or trolley system is set inside a proper enclosure;
 - (2) Only one (1) animal may be attached to each running cable line or trolley system;
 - (3) No animal may be attached to a running cable line or trolley system for more than twelve (12) hours in a twenty-four-hour period;
 - (4) No animal may be attached to a running cable line or trolley system between the hours of 10:00 p.m. and 6:00 a.m.;
 - (5) Tethers and cables attaching the animal to the running cable line or trolley system must be made of a substance which cannot be chewed by the animal and shall not weigh more than five (5) percent of the body weight of the animal tethered;
 - (6) A running cable line or trolley system must have a swivel installed at each end and be attached to a stationary object that cannot be moved by the animal;
 - (7) The running cable line or trolley system must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level;
 - (8) The length of the tether from the running cable line or trolley system to the animal's collar should allow access to the maximum available exercise area and allow the animal free access to food, water, and shelter;
 - (9) Be attached to a properly fitted harness or collar not used for the display of a current rabies tag and other identification; and with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke

collars and pinch collars are prohibited for the purpose of tethering an animal to a running cable line or trolley system; and

(10) Be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury of strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.

(f) If an electronic animal confinement system is used to confine an animal, it shall:

(1) Provide a properly fitted and working signal device that will be worn by the animal to be enclosed.

(2) Contain permanent and prominently displayed signs at twenty-five (25) feet intervals around the entire perimeter of the electronic animal confinement system. The signs shall be no smaller than six (6) inches square, and shall read: "Caution—Electronic Animal Confinement System."

Sec. 5-4. - Duty to restrain while off owner's property.

It shall be the duty of any person to keep an animal under restraint and control at all times while the animal is off the real property limits of the owner. Such areas shall not include county parks that are specifically designated as off leash areas.

Sec. 5-5. - Animals at large.

It shall be unlawful for the owner of an animal to allow it to run at large unattended on or about the streets, right of ways, and highways of unincorporated DeKalb County; in any DeKalb County park, except in county parks that are specifically designated as off leash areas; unattended on or about the common property of any apartment complex or condominium community; or on the property of another person without permission of the owner of that property. This section shall not apply to dogs being used for hunting in accordance with state law, rules and regulations.

Sec. 5-6. - Abandonment.

It shall be unlawful for anyone to knowingly abandon, or to aid in the abandonment of, any domesticated animal on any property located in unincorporated DeKalb County.

Sec. 5-7. - Neglect.

It shall be unlawful for any owner to neglect an animal.

Sec. 5-8. - Cruelty to animals.

(a) It shall be unlawful for any person to commit an act of cruelty towards any animal, except that a person may:

(1) Defend his person or property, or the person or property of another, from injury or damage being caused by an animal; or

- (2) Kill any animal causing injury or damage to any livestock, poultry or pet animal.
- (b) The method used for killing the animal shall be as humane as possible under the circumstances. A person who humanely kills an animal under the circumstances indicated in subsection (a) of this section shall incur no penalty for such death.
- (c) This section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society or veterinarian.

Sec. 5-9. - Required permanent identification.

It shall be the duty of every animal owner who has been convicted, in a court of competent jurisdiction, of abandonment, cruelty or neglect of an animal, or who owns a classified animal, to have the animal permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the chip parent company and the police chief.

Sec. 5-10. - Dangerous and vicious animals.

- (a) Pursuant to 1979 Ga. Laws 516, if the police chief learns of the existence of a dangerous animal or vicious animal, the police chief shall then cause a summons to be issued within seventy-two (72) hours requiring the owner of the animal to appear before a judge of the DeKalb County recorder's court or magistrate court, as specified below, at a date and time certain no earlier than fifteen (15) days after service, to conduct a hearing as to the appropriate classification of the animal. The summons so issued shall be served on the owner personally. Prior to July 1, 2015, such actions shall be heard in DeKalb County recorder's court and after July 1, 2015, such actions shall be heard in DeKalb County magistrate court. The police chief shall also immediately impound the animal believed to be dangerous or vicious.
- (b) The court shall determine after a hearing if the animal is to be classified as a dangerous animal or vicious animal. In making its findings in this regard, the court shall enter a written order notifying the animal's owner and the police chief of its decision.
- (c) The appeal of any order of the court concerning the classification of an animal as vicious or dangerous shall be by petition for writ of certiorari to the superior court of DeKalb County.
- (d) If the court classifies the animal as dangerous or vicious, and no appeal is filed, the owner shall be required to obtain from the police chief an annual certificate of registration in compliance with the requirements of this chapter. No vicious or dangerous animal shall be released to its owners until such certificate is issued by the police chief.
- (e) If the owner fails to obtain the certificate of registration within thirty (30) days of

the issuance of the order classifying the animal as dangerous or vicious, the animal will be euthanized no earlier than 35 days after the issuance of the order so classifying the animal. The animal shall not be euthanized if the owner appeals the court's classification order by petition for writ of certiorari to the superior court of DeKalb County within 30 days after the order of classification. During the pendency of the appeal and any further appeals, the animal shall not be euthanized, provided that in the event the classification order is upheld at the conclusion of all appeals, the animal shall be euthanized no earlier than 35 days after the final order upholding the classification if the owner does not obtain the required certificate of registration within 30 days after the date of the final order of court upholding the classification order. During the pendency of any such appeal by the owner, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In such event, the animal will be housed at a licensed veterinarian's office or a licensed kennel and the cost of such detention shall be borne by the owner of the animal. In the event the county appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In the event of an appeal by the county, the animal will be housed in the animal service center and the cost of such detention shall be borne by the county.

Sec. 5-11. - Exemptions from classification as a dangerous or vicious animal.

An animal shall not be classified as a dangerous animal or vicious animal:

- (a) When the animal bites, attacks or menaces anyone who assaults the animal's owner;
- (b) When the animal bites, attacks or menaces anyone who willfully trespasses, or commits another tort, upon the property of the owner;
- (c) When the animal bites, attacks or menaces anyone who is currently, or has in the past, tormented or abused the animal;
- (d) Where the animal is acting in defense of an attack from a person or other animal upon the owner or other person;
- (e) Where the animal is protecting or defending its young or another animal;
- (f) Where the animal is being used by a law enforcement or military officer to carry out official duties; or
- (g) When the animal bites, attacks or menaces anyone who is committing or attempting to commit an offense in violation of O.C.G.A. § 16-5-1, *et seq.*

Sec. 5-12. - Certificate of registration.

- (a) The owner of a classified animal must be eighteen (18) years old or older; annually obtain a certificate of registration for the animal from the county; and,

pay an annual registration fee to be determined by the governing authority. At the time of renewal, the county shall verify that the owner is continuing to comply with all applicable provisions of this chapter. The requirements of this section apply to any classified animal living in DeKalb County.

- (b) Certificates of registration are nontransferable and no more than one certificate of registration shall be issued per domicile. The certificate of registration shall be issued to the owner upon receipt of all of the following:
 - (1) Written evidence that the animal is permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the chip parent company and the police chief within thirty (30) days of an order classifying the animal as dangerous or vicious or within such later time as specified by a court of competent jurisdiction or within thirty (30) days of the conclusion of any appeal of a court's order that upholds the classification of an animal as dangerous or vicious;
 - (2) A copy of a current policy of insurance in the minimum amount of fifty thousand dollars (\$50,000.00) issued by an insurer authorized to transact business in the State of Georgia, insuring the owner of a dangerous animal, and seventy-five thousand dollars (\$75,000.00) insuring the owner of a vicious animal, against liability for any personal injuries or property damage inflicted by the dangerous animal or vicious animal; or a copy of a current surety bond in the foregoing respective amounts issued by a surety company authorized to transact business in the State of Georgia, payable for property damage or personal injury caused by the dangerous or vicious animal;
 - (3) Written or photographic proof that the animal will be confined in a classified animal pen; and
 - (4) Written evidence that the animal has been sterilized by a licensed veterinarian.
- (c) The owner of a classified animal shall notify the police chief within twenty-four (24) hours if the animal dies. If the animal dies, the body must be available for microchip scanning to provide positive identification of the dangerous animal or vicious animal. A vicious animal shall not be transferred, sold or donated to any other person unless it is relinquished to a governmental facility or a veterinarian to be euthanized. If a dangerous animal is sold or given to another person, the current owner listed on the most current certificate of registration must provide the police chief with the name, address, and telephone number of the new owner within thirty (30) days of the sale or transfer of such animal. New owners of dangerous animals are subject to all requirements of this Code upon transfer of such animal and such new owner must register the animal in his or her name within thirty (30) days of the sale or transfer of the animal to such new owner.
- (d) The owner of a classified animal must notify the police chief in writing within

fifteen (15) days after changing his/her address. Such written notice shall provide the owner's new address and telephone number. The owner shall promptly obtain a new certificate of registration reflecting the new address if such address is located within the county.

- (e) The owner of a classified animal shall notify the police chief in writing within seventy-two (72) hours after moving a classified animal into the county. Such written notice shall provide the address and telephone number of the owner and the owner shall obtain a certificate of registration for the animal within seventy-two (72) hours after moving into the county.
- (f) No certificate of registration shall be issued to any person who has been convicted of two or more violations of this chapter. No person shall be the owner of more than one vicious animal. No certificate of registration for a vicious animal shall be issued to any person who has been convicted of:
 - (1) a serious violent felony as defined in O.C.G.A. § 17-10-6.1;
 - (2) the felony of dog fighting as provided for in O.C.G.A. § 16-12-37 or the felony of aggravated cruelty to animals as provided for in O.C.G.A. §16-12-4; or
 - (3) a felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in O.C.G.A. §§16-13-31 and 16-13-31.1

from the time of conviction until two years after completion of his or her sentence. The restrictions imposed by this subsection also apply to any person residing with such convicted person.

Sec. 5-13. - Confinement of dangerous or vicious animals.

- (a) Classified animals shall be confined in a classified animal pen.
- (b) The owner of a classified animal must post signs on all means of ingress and egress to the premises where the animal resides. Such signs shall read in letters at least three-quarters of an inch (3/4") high: "Dangerous / Vicious Animal on Property." Such signs shall be no smaller than eight and five-tenths (8.5) by eleven (11) inches.
- (c) Whenever outside its classified animal pen, but on the owner's property, a classified animal shall be attended by the owner, muzzled by any means sufficient to prevent the biting of persons or animals, and restrained by a secure collar and leash of sufficient strength to prevent escape. Such leash shall not exceed three (3) feet in length.
- (d) No classified animal shall be permitted off the property of its owner unless accompanied by the owner, muzzled by any means sufficient to prevent the biting of persons or animals, and restrained by a secure collar and leash of sufficient

strength to prevent escape. Such leash shall not exceed three (3) feet in length. In the alternative, the classified animal when off the owner's property may be contained in a closed and locked cage or crate.

- (e) The owner of a classified animal shall make the animal and the area of confinement available for periodic, unannounced inspections by the police chief to ensure compliance with the confinement requirements of this chapter, provided that the owner consents to such entry and inspection. If consent is not obtained, the police chief shall obtain an inspection warrant prior to any inspection in accordance with the requirements of state law.

Sec. 5-14. - Transportation of animals in open air vehicles.

If transporting an animal in an open-air vehicle, the owner is responsible for securing the animal so as to prevent the animal from escaping out of the vehicle, getting tangled, or extending over the edge of the vehicle such that injury or strangulation of the animal could result while the vehicle is in motion. For classified animals the requirements of this section are in addition to the requirements outlined in Section 5-13.

Sec. 5-15. - Hazardous animals.

No person shall own, keep, harbor, house, or permit to be kept, harbored or housed, a hazardous animal within unincorporated DeKalb County, unless granted prior written approval from the police chief. Written approval may be granted upon presentation of photographic proof that the animal will be kept adequately restrained or confined as is common for the species.

Sec. 5-16. - Guard dogs.

It shall be the duty of the owner of a guard dog to display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign which reads, in letters at least three-quarters of an inch (3/4") high, "Guard Dog," and lists the name and contact number of the owner of the dog in same size type. Such signs shall be no smaller than eight and five-tenths (8.5) by eleven (11) inches.

Sec. 5-17. - Rabies tag; rabies vaccination and animal registration.

- (a) The requirements of this section only apply to owners of dogs, cats or ferrets, provided the dog, cat or ferret is three (3) months old or older.
- (b) The chief executive officer shall promulgate and administer the process for verification of rabies vaccinations and registration of dogs, cats or ferrets set forth in this section and may utilize county employees or third parties to handle any or all parts of this process. The chief executive officer shall determine what information is needed from veterinarians and owners in order to verify rabies vaccinations and complete the required registration process.
- (c) It shall be the duty of any owner of any dog, cat, or ferret to obtain a current rabies

vaccination from a licensed veterinarian periodically as ordered by the veterinarian.

- (d) After vaccination, it shall be the duty of any owner of any dog, cat or ferret to register each inoculated animal with the county or its designee and pay a registration fee in an amount to be established by the governing authority.
- (e) Veterinarians shall verify that an animal has received a rabies vaccination and shall advise the county or its designee of said vaccination in a manner and form specified by the chief executive officer.
- (f) Each veterinarian shall obtain registration information from the owner of each inoculated animal and shall forward such information and verification of the rabies vaccination to the county or its designee within thirty (30) days of inoculation of every dog, cat, or ferret.
- (g) Upon receipt of verification of rabies vaccination and the required registration information, the county or its designee shall contact the owner of the inoculated dog, cat, or ferret and shall require the owner to register the animal with the county. Upon registration of the dog, cat or ferret and payment of the registration fee, the county or its designee shall forward the appropriate rabies inoculation tag for that animal to the owner.
- (h) Registration also can be handled through a licensed veterinarian's office at the time of inoculation in the manner provided in this section. If a veterinarian agrees to handle registration, rabies inoculation tags shall be provided to licensed veterinarians. At the time of inoculation, veterinarians shall request that owners simultaneously pay the county's registration fee, which if collected shall be forwarded with the registration form and rabies certificate to the county or its designee by the veterinarian. For every registration fee collected by the veterinarian and remitted to the county or its designee, the veterinarian may keep an administrative processing fee in an amount to be established by the governing authority.
- (i) If an owner refuses to pay the registration fee to the veterinarian, the veterinarian shall notify the county or its designee of such refusal when it forwards the rabies certificate and the completed registration form to the county or its designee. Thereafter, the owner shall pay the registration fee directly to the county or its designee.
- (j) It shall be the duty of any owner of a dog, cat, or ferret to provide a collar or harness for such animal. The collar or harness, together with the rabies inoculation tag, shall be worn by the animal at all times.

Sec. 5-18. - Rabies vaccination required for reclaim of an animal.

An owner reclaiming an animal three (3) months of age and older from the county shall present proof of a current rabies vaccination at time of reclaim. If proof is unavailable, and a county veterinarian is on duty and available, the vaccine will be administered by the veterinarian at the owner's expense.

Sec. 5-19. - Enforcement generally.

- (a) As authorized by 1979 Ga. Laws 516, the police chief shall enforce the provisions of this chapter and applicable provisions of Chapter 13 of this Code.
- (b) Upon information learned by, or complaint lodged with, the police chief that an animal owner is in violation of this chapter, the police chief shall cause a summons to be issued requiring the owner of the animal to appear before a judge of the DeKalb County magistrate court, at a date and time certain, to stand trial for the violation. If a violation has not been personally witnessed by the police chief or other law enforcement officer, a subpoena shall be issued to the person making the complaint, along with any witness(es), to appear on the date and time set for trial, to testify on behalf of the county.
- (c) The police chief may respond to anonymous complaints of violations of this chapter. If the owner or custodian of an animal is unknown or not present, and such animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or is upon another person's property without permission or absent proper restraint, or is a classified animal as to which the registration, confinement or insurance requirements have not been met, the police shall immediately impound the animal in a facility designated for the detention of animals. Once impounded, the animal shall be kept for a period of time as set forth in section 5-22. Thereafter, if the animal is not claimed, the animal may be disposed of in a humane fashion in accordance with the provisions of O.C.G.A. § 4-11-5.1, *et seq.*
- (d) Any stray cat without any traceable form of identification that is impounded or brought to the animal service center and deemed eligible may be transferred immediately to the community cat program.
- (e) Any community cat or unowned, free-roaming cat that is not healthy in the opinion of qualified county employees or designees shall be impounded. No healthy community cat shall be impounded unless it:
 - (1) Damages the personal or private property of a person or legal entity that seeks its impoundment; or
 - (2) Creates unsanitary conditions, offensive or objectionable odors.

If a healthy community cat is impounded pursuant to this subsection (e), upon impoundment, it shall be transferred to a qualified adoption facilitator or disposed of by the county or its designee.
- (f) An animal may be euthanized when, in the judgment of the police chief, it is determined that:
 - (1) At the scene of an accident an animal is injured beyond medical help, and no traceable form of identification is displayed on the animal;

- (2) An animal presented to the animal service center without traceable form of identification is injured beyond medical help, or exhibits obvious signs of infectious disease or parasite infestation that would impose a health risk to animals housed in the animal service center; and
 - (3) A veterinarian has determined from all the circumstances that it would be inhumane not to euthanize a particular animal
- (g) The judge of any superior court of competent jurisdiction within the state may order the euthanasia of an animal if the court finds, after notice and opportunity for hearing, that the animal has seriously injured a human or presents a danger to humans not suitable for control under this chapter and:
 - (1) The owner or custodian of the animal has been convicted of a violation of any state criminal law and the crime was related to such animal; or
 - (2) Any local governmental authority has filed with the court a civil action requesting the euthanasia of the animal.
- (h) A judge of the magistrate court or the superior court shall order the euthanasia of any animal if the court finds, after notice and the opportunity for hearing, that the animal has caused a serious injury to a human on more than one occasion; provided, however, that no injury occurring before July 1, 2012, shall count for purposes of this subsection.

Sec. 5-20. - Right of entry.

The police chief may use any force necessary to remove any animal locked in a closed vehicle if the animal exhibits distress, including but not limited to, excessive panting or drooling, seizures, state of unconsciousness, or hyperactivity. If the vehicle is damaged during such removal, the police chief shall not be liable for any damage to the vehicle.

Sec. 5-21. - Fees and miscellaneous regulations.

- (a) The fee schedule and refund policy with respect to all services performed in connection with enforcement of this chapter shall be set by official action of the governing authority. The fee schedule and refund policy shall be maintained by the clerk to the board of commissioners and a copy shall be available to the public at the police department.
- (b) Veterinarians shall return spay/neutered certificates to the chief of police within thirty (30) days of the date of surgery. Vouchers for county requested sterilization submitted by veterinarians for payment more than one (1) year after the date of surgery will not be honored for payment.

Sec. 5-22. - Notice to owner of impounded animal.

- (a) Upon impounding an animal with identification, the county shall make a prompt and reasonable effort to locate the animal's owner. Upon location thereof, the county shall send to such owner notification of impoundment. For the purpose of this chapter, sufficient notice shall be by phone, hand delivery, or United States mail to the animal's owner.

- (b) If an animal is not claimed by the owner or custodian thereof within five (5) business days after notice of impoundment is mailed or otherwise provided as set forth above, the county may offer the animal for adoption or transfer the animal to a qualified adoption facilitator, provided the following conditions are met:

- (1) The animal appears to be in good health;
- (2) The animal has not been classified as dangerous or vicious;
- (3) The animal is not known to have bitten a human without provocation or to have bitten a human under circumstances that in the opinion of the chief of police make it likely that the animal will bite humans again.

Alternatively, the county may dispose of the animal after five (5) business days.

- (c) If the impounded animal is not wearing a rabies tag or a tag or microchip identifying the name, address, and telephone number of the animal's owner or custodian, the county may place the animal for adoption or transfer the animal to a qualified adoption facilitator after three (3) business days following impoundment. The county may dispose of the animal after five (5) business days following impoundment.
- (d) In no event shall a lawful owner be allowed to reclaim an animal until all fees required by this Code are paid to the county including any medical fees incurred due to the health of the animal and its treatment.
- (e) If the owner of the impounded animal cannot be located, then such owner shall be conclusively presumed to have given consent to the adoption of the impounded animal, or to have given consent to euthanize the animal in accordance with O.C.G.A. § 4-11-5.1 and § 4-5-1 et seq.
- (f) *Reserved.*

Sec. 5-23. - Limiting adoptions.

- (a) The county reserves the right to refuse to allow any person to adopt an animal in the county's custody or control. Any individual wishing to adopt an animal from the county must provide proof of ownership of residence, or permission of the property owner for the animal to reside at a particular location. No person who surrenders ownership of an animal to the county may adopt an animal for a period of five (5) years after the surrender, without a written waiver from the police chief.
- (b) Animals not placed for adoption through the county program may be made available to qualified adoption facilitators, rescue groups and animal shelters on a first come first served basis. Upon request, qualified adoption facilitators, rescue groups and animal shelters must provide proof of Georgia State licensing or proof of non-profit status under Section 501(c)(3) of the Internal Revenue Code if incorporated outside the State of Georgia prior to receiving animal(s). Qualified adoption facilitators, rescue groups and animal shelters may be required to pay a

qualified adoption facilitator/rescue fee and reimburse the county for any medical care/testing done on the animal by the county or its agents.

- (c) Any person convicted of cruelty, neglect or abandonment of an animal will not be allowed to adopt an animal from the animal service center for five (5) years after the date of conviction, without written waiver from the police chief.

Sec. 5-24. - Ownership.

- (a) It shall be unlawful for any person to abandon, sell, trade, swap or give away animals within the real property limits of buildings or surrounding grounds belonging to the DeKalb County Government.
- (b) It shall be unlawful for any person to give away or sell any animal on any public roadway in unincorporated DeKalb County.

Sec. 5-25. - Sterilization.

- (a) It shall be the duty of the owner of a dog or cat declared to be a classified animal by a court of competent jurisdiction to have the animal sterilized. Such sterilization must be performed by a licensed veterinarian within thirty (30) days of a final order of a court of competent jurisdiction finding that the dog or cat is a classified animal.
- (b) It shall be the duty of the owner and/or qualified adoption facilitator, rescue group or animal shelter to have a dog or cat adopted from the county sterilized. Puppies and kittens must be sterilized by a licensed veterinarian within six (6) months of the date of adoption. Adult dogs and cats must be sterilized by a licensed veterinarian within thirty (30) days of the date of adoption.
- (c) Owners of ferrets must comply with any state law applicable to ferrets.
- (d) Unowned, free-roaming cats shall be vaccinated, sterilized and ear tipped as part of the community cat program. Cats brought into the community cat program are exempt from registration, licensing, and stray animal provisions of this chapter, shall not be deemed abandoned when returned to the location where captured, and as necessary and appropriate, may be exempt from other provisions of this Code applicable to owned animals.

Sec. 5-26. - Transient animals.

A dog, cat, or ferret shipped or transported through the county or entering the county for less than fifteen (15) days shall be exempt from licensing fees and collar and tag sections of this chapter. However, all other provisions of this chapter are applicable to such transient animals. In addition, proof of a current rabies vaccination or health certificate for such animal must be available for inspection by the police chief at any time the animal is within the boundaries of the county.

Sec. 5-27. - Limitation on ownership.

- (a) Any person who has been convicted of cruelty, neglect or abandonment of an animal as provided in this Code or state law, and has relinquished ownership of said animal, shall not be allowed to own a pet in their household in unincorporated DeKalb County for five (5) years measured from the date of conviction.
- (b) Any person who has been convicted of failure to keep an animal under restraint while on owner's property as provided in this Code, or has been ordered by a court to meet additional confinement requirements and has not complied with the court's order, shall not be allowed to own a pet in their household in unincorporated DeKalb County for five (5) years measured from the date of conviction or court order.

Sec. 5-28. - Violations and enhanced penalties.

- (a) Any person who does anything prohibited or fails to do anything required by this chapter, upon citation by the police chief and conviction of the violation in a court of competent jurisdiction may be subject to fine and/or imprisonment in accordance with section 1-10 of this Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) A classified animal shall be immediately impounded by any county police officer, code enforcement officer or animal enforcement officer if such animal or its owner has violated any of the requirements of this chapter. Any animal, whether classified or not, may be impounded if such officer believes the animal poses a threat to the public.
- (c) The owner of a classified animal shall notify the police chief as soon as the owner discovers that the animal is on the loose, unconfined, or has attacked a human or another animal, and failure to so notify the police chief shall be a violation of this chapter by the owner of the animal.
- (d) It shall be a violation of this chapter for any person to possess within the county a classified animal without a certificate of registration issued in accordance with the provisions of this chapter.
- (e) Upon a second or subsequent conviction of any violation of this chapter by the owner of a classified animal, the court may impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (f) Upon a second or subsequent conviction for a violation of this chapter by the owner of a vicious animal, the court may order the animal to be euthanized.
- (g) Upon a third or subsequent conviction for a violation of section 5-2(c), the court may impose a fine of not less than three hundred dollars (\$300.00) in addition to any other penalty or punishment imposed by the court.

- (h) Upon a third or subsequent conviction of a violation of section 5-3, the court shall require the owner to confine the animal in a classified animal pen, irrespective of whether the animal is classified as vicious or dangerous.
- (i) Upon a third or subsequent conviction for a violation of section 5-4, the court may impose a fine of not less than three hundred dollars (\$300.00) in addition to any other penalty or punishment imposed by the court.
- (j) Upon a second or subsequent conviction for a violation of section 5-7, the court may impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (k) Upon any conviction for a violation of section 5-8, the court may impose a fine of not less than eight hundred dollars (\$800.00) in addition to any other penalty or punishment imposed by the court.
- (l) Upon a second or subsequent conviction of a violation of section 5-16, the court may impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
- (m) Upon a second or subsequent conviction for a violation of section 5-17, the court may impose a fine of not less than three hundred dollars (\$300.00) in addition to any other penalty or punishment imposed by the court.

Sec. 5-29. - OCVI Health Certificate required.

- (a) The owner of any cat or dog, sterilized or unsterilized, that is sold, or exchanged for valuable consideration is required to give the new owner a current, valid OCVI Health Certificate at the time of exchange or sale. The OCVI Health Certificate must be available for review by potential new owners at the time any dog or cat is offered for sale or exchange, for valuable consideration. A current OCVI Health Certificate must be presented to any animal control officer upon request for review.
- (b) Qualified adoption facilitators, rescue groups, and animal shelters are exempt from the requirements of this section.
- (c) Each animal found to be without an OCVI Health Certificate shall be considered a separate violation of this section by the owner of the animal. Animals shall not be subject to impoundment for violations of this section.

Sec. 5-30. Classifications of animals in previous ordinances/compliance.

Any animal classified prior to _____ (*Note to Clerk- Please insert the effective date of this ordinance*) as a potentially dangerous animal shall on and after that date be classified as a dangerous animal under this chapter. Any animal classified prior to _____ (*Note to Clerk- Please insert the effective date of this ordinance*) as a dangerous animal shall on and after that date be classified as a vicious animal under this chapter.

Sec. 5-31. Limitation of liability and classification.

Any irregularity in classification proceedings shall not be a defense to any prosecution under this chapter so long as the owner of the animal received actual notice of the classification and did not pursue correction of the irregularity. Under no circumstances shall the county or any of its elected officials, employees, or officers be held liable for any damages to any person who suffers an injury inflicted by an animal as a result of a failure to enforce the provisions of this chapter.

PART II. EFFECTIVE DATE

This ordinance shall become effective after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions or parts thereof in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2015.

LARRY L. JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2015.

LEE MAY
Interim Chief Executive Officer
DeKalb County, Georgia

ATTEST:

APPROVED AS TO FORM:

BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer of
DeKalb County

VIVIANE H. ERNSTES
Deputy County Attorney

APPROVED AS TO SUBSTANCE:

XAN RAWLS
Director, DeKalb County Animal Services Enforcement